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Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani

Addendum

Follow-up mission to Azerbaijan* **

Summary

The Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, conducted an official mission to Azerbaijan from 19 to 24 May 2014 at the invitation of the Government and as mandated by the Human Rights Council in its resolution 23/8. The objective of the visit was to examine the human rights situation of internally displaced persons in the country since the last assessment made in 2010 by the previous mandate holder.

The Government of Azerbaijan has made commendable progress in providing durable housing for internally displaced persons, especially with the construction of new settlements that are all equipped with modern facilities. Continued efforts to provide similar housing to those still living in the collective centres visited are still necessary, in the context of a rights-based development approach to address the situation of all internally displaced persons in and outside settlements. Moreover, the Special Rapporteur emphasizes the abiding need to find durable solutions to the protracted situation of internally displaced persons in Azerbaijan.

* The summary of the present report is circulated in all official languages. The report itself, contained in the annex, is circulated in the language of submission only.

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In Azerbaijan, one of the main obstacles encountered in the search for durable solutions for internally displaced persons, including return to their homes or places of origin, remains the absence of a political settlement to the unresolved armed conflict in and around the Nagorno-Karabakh region.[1] Azerbaijan. In this connection, the Special Rapporteur calls upon all the parties concerned to step up efforts towards reaching a political settlement that would enable durable solutions, including return, from a combined humanitarian and development perspective, and take all the necessary measures to ensure that all internally displaced persons can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes or places of habitual residence in safety and dignity, to integrate locally or to resettle elsewhere in the country.

[1] All references to the territories in and around the Nagorno-Karabakh region in the present document should be understood to be in full compliance with General Assembly resolution 62/243 of 14 March 2008. The resolution reaffirmed, in paragraph 1, "continued respect and support for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders".

Annex

Report of the Special Rapporteur on the human rights of internally displaced persons on his follow-up mission to Azerbaijan (19–24 May 2014)

[*English only*]

Contents

		Paragraphs	*Page*
I.	Introduction	1–6	4
II.	Current situation of internal displacement in Azerbaijan	7–8	5
III.	Framework for the protection and assistance of internally displaced persons	9–20	5
	A. Domestic response	9–12	5
	B. International response	13–20	6
IV.	Specific rights and issues of concern for internally displaced persons	21–61	7
	A Right to an adequate standard of living	21–25	7
	B. Employment and livelihood opportunities	26–35	8
	C. Social security	36–37	10
	D Right to education	38–42	11
	E. Right to health	43–48	11
	F. Freedom of movement, registration and assistance	49	13
	G. Participation in public and political life	50–53	13
	H. Specific needs	54–61	14
V.	Search for durable solutions for internally displaced persons	62–69	15
VI.	Conclusions and recommendations	70–84	17

I. Introduction

1. In accordance with his mandate contained in Human Rights Council resolution 23/8 and at the invitation of the Government of Azerbaijan, the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, conducted an official follow-up visit to Azerbaijan from 19 to 24 May 2014. The objective of the visit was to follow up on the visits conducted by his predecessors, the Representative of the Secretary-General on internally displaced persons, Francis Deng, in 1998 and the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, in 2007 and 2010.

2. The Special Rapporteur met with the Deputy Prime Minister and Head of the State Committee for Refugees and Internally Displaced Persons; the Minister of Health; the Deputy Minister for Foreign Affairs, the Deputy Minister of Economy and Industry, the Deputy Minister of Labour and Social Protection, and the Deputy Minister of Education. He also met with the Deputy Chairman of the Parliament, the Chairman of the Social Policy Committee and the Chairperson of the Human Rights Committee of the Parliament. The Special Rapporteur further met with the Deputy President of the State Oil Fund and held meetings with the Ombudsman of Azerbaijan, representatives of the international community and non-governmental organizations.

3. During his week-long mission, the Special Rapporteur visited locations where internally displaced persons (IDPs) live in the western district of Agdam, in new settlements in the Binagadi district of Baku and the Masazir settlement in the Absheron district.

4. The Special Rapporteur expresses his sincere gratitude to the Government of Azerbaijan for its full cooperation during his visit. He is also grateful to all his interlocutors, especially IDPs who kindly shared their experiences and different perspectives with him. He looks forward to a fruitful and continued dialogue with the Government and other stakeholders on the implementation of the recommendations contained in the present report.

5. The Special Rapporteur would like to sincerely thank the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office of the United Nations High Commissioner for Refugees (UNHCR) for ably coordinating his visit to Azerbaijan. He is grateful for all the logistical, administrative and substantive support he received, which facilitated the conduct of the visit. He would also like to thank the United Nations Resident Coordinator and the United Nations country team for their support and cooperation.

6. Durable solutions should be regarded inclusively as options available to all IDPs. A humanitarian and development approach to achieving durable solutions requires that they be delinked from the political issues concerning the Nagorno-Karabakh region.[2] However, the Special Rapporteur considers that the full restoration of the human rights of IDPs by means of durable solutions requires first and foremost a resolution to the outstanding peace negotiations relating to the armed conflict in and around the Nagorno-Karabakh region. Following his mission, the Special Rapporteur was privileged to address the Security Council in the framework of an "Arria formula" meeting in which he conveyed important messages calling for the implementation by the Minsk Process of Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993). The General Assembly has passed resolutions relating to the conflict in and around the Nagorno-Karabakh region,

[2] Any reference to the Nagorno-Karabakh region is understood to be in compliance with General Assembly resolution 62/243.

notably resolutions 48/114 (1993), 60/285 (2006) and 62/243 (2008). The Special Rapporteur calls upon all parties to take all the necessary measures to ensure that all IDPs can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes or places of habitual residence in safety and dignity, to integrate locally or to resettle elsewhere in the country.

II. Current situation of internal displacement in Azerbaijan

7. The phenomenon of internal displacement in Azerbaijan has been addressed in previous reports by this mandate (see E/CN.4/1999/79/Add.1, A/HRC/8/6/Add.2 and A/HRC/16/43/Add.2). The situation of IDPs in Azerbaijan remains a consequence of the country's unresolved armed conflict in and around the Nagorno-Karabakh region.

8. According to the Government of Azerbaijan, there were 609,029 IDPs as at the end of 2013, predominantly former residents of the Nagorno Karabakh and the seven surrounding territories, who have been displaced since the armed conflict in and around the Nagorno-Karabakh region which ended with the 1994 ceasefire, which to date is still in place. About 50 per cent of IDPs live in the urban areas of Baku and Sumgayit. The IDP population has grown and is expected to continue rising given the protracted situation of internal displacement. For example, in Agdam district, where the Special Rapporteur met with IDPs, the official figures refer to a total number of 145,000 IDPs out of the 190,000 inhabitants of that district.

III. Framework for the protection and assistance of internally displaced persons

A. Domestic response

9. The Special Rapporteur notes that there is an effective humanitarian response to internal displacement in Azerbaijan. The Government confirmed that in the past 20 years a total of US$ 5.5 billion has been allocated for the assistance of IDPs. Out of that figure, US$ 2.5 billion comes from the State budget, US$ 1.9 billion from the State Oil Fund and US$ 1.1 billion are contributions made by international financial institutions and humanitarian organizations present in the country.

10. The body of legislation put in place by the Government to address internal displacement has essentially remained the same since the previous visits of the Special Rapporteur's predecessors. According to the Government, a total of 95 orders and decrees were signed by the President, 357 resolutions and decrees were approved by the Cabinet of Ministers and 33 laws were adopted by the National Parliament, including the 1998 Law on Citizenship, the 1999 laws on the status of refugees and IDPs and on social protection of IDPs and persons equated to them, Presidential Decree No. 895 of 17 September 1998 on the State programme on solutions to problems of refugees and IDPs, Decree No. 298 of 1 July 2004 on the State Programme for improvement of living conditions and increasing employment for refugees and IDPs, Decrees No. 2475 of 31 October 2007 and No. 1346 of 21 February 2011 on the Annexes to the State Programme on improvement of living conditions and increasing employment opportunities have been approved to date. In addition, following his visit, the Special Rapporteur's attention was drawn to the State Programme on poverty reduction and sustainable development in the Republic of Azerbaijan for 2008–2015, approved by Decree No. 3043 of 15 September 2008 by the President of Azerbaijan; State Programme on implementation of the employment strategy of the Republic of Azerbaijan in 2011–2015, approved by Decree No. 1836 of 15 November 2011 by the President; State Programme on socioeconomic development of

regions of the Republic of Azerbaijan in 2014–2018, approved by Decree No. 118 of the President on 27 February 2014.

11. The State Programme was amended again in 2011 to include additional support for IDPs, and a revised programme for 2015–2020 is under preparation. The Special Rapporteur views those developments as proving an ideal opportunity to consult IDPs, assess their needs for durable solutions and ensure that the most vulnerable are prioritized. A needs-based profiling assessment would prepare the ground for durable solutions, including the master return plan, and reveal the extent to which IDPs still have needs relating to their displacement in order to tailor solutions accordingly under the next programme. Findings from such a profiling and needs assessment exercise would also be relevant to priority-setting and implementation of the development frameworks beyond 2015 of the Government and the United Nations.

12. The Special Rapporteur observes that comprehensive legislation addressing all human rights of IDPs and durable solutions has yet to be adopted or consolidated. For instance, the 1999 legislation on forcibly displaced people must be brought into line with the Guiding Principles on Internal Displacement. The causes of displacement should include human rights violations, generalized violence and natural and human-made disasters. At present, persons internally displaced by disasters are not registered as IDPs and are therefore not eligible for the benefits set out in the 1999 legislation. Separate laws and policies dedicated to displacement caused by disasters are therefore required to ensure a comprehensive approach overall.

B. International response

13. There has been a steady decline in international humanitarian engagement in Azerbaijan, as the country has experienced substantial oil-driven growth that has enabled it to become an aid donor itself.

14. United Nations agencies and international organizations have found it increasingly difficult to secure humanitarian funding, but several continue to work with IDPs. Those include both humanitarian and development stakeholders that the Special Rapporteur met during his mission, such as the International Committee of the Red Cross, the International Organization for Migration, UNHCR, the United Nations Children's Fund, the United Nations Population Fund (UNFPA), the World Health Organization and the World Bank, and also Oxfam and World Vision.[3]

15. Despite constraints on its budget, UNHCR undertook its largest participatory assessment in the country to date in 2013, interviewing around 1,600 IDPs and 150 of their local community neighbours. Although this was the most extensive and largest consultation ever undertaken by UNHCR, the findings might not be fully representative of the entire and very diverse IDP population as the 1,600 IDPs to whom UNHCR was able to reach out only represent some 0.26 per cent of the total IDP population in Azerbaijan. In addition to standard questions on protection risks, the assessment included others on the development priorities and challenges of IDPs. The assessment's findings informed United Nations-facilitated national consultations with the citizens of Azerbaijan for the country's post-2015

[3] According to information provided by World Vision, that non-governmental organization has two projects targeting IDPs, one relates to disaster risk reduction awareness among children in Agjebedi district and the other project, called "Sheki-Zakatala Development Model Project", aims to support integrated and sustainable entrepreneurship development in six districts of the Sheki-Zaqatala economic region.

sustainable development framework, which is aligned with the Government's strategy "Azerbaijan 2020: the vision of the future".[4]

16. In 2011, the World Bank launched a US$ 78.5 million project to improve economic self-reliance and living conditions of IDPs in more than 60 collective centres. Given that, with the exception of the International Committee of the Red Cross, international agencies rely on local non-governmental organizations as implementing partners, the establishment of an operating environment more conducive to their work is particularly important.

17. Increasing access to quality reproductive health services for women, men and young people paying particular attention to the needs of vulnerable populations has been among the key priorities of the United Nations Population Fund. Special attention is given to improving national mechanisms for gender equality, women's empowerment and prevention of gender-based violence.[5]

18. Intergovernmental organizations continue to focus on conflict resolution. The Organization for Security and Cooperation in Europe and the co-chairs of its Minsk Group — France, the Russian Federation and the United States of America — have conducted more than two decades of diplomacy, but a resolution to the conflict and the achievement of durable solutions to displacement remain elusive. The former European Union Special Representative for the South Caucasus visited Azerbaijan in mid-2013 and pressed for confidence-building measures. The Special Rapporteur encourages the new Special Representative, appointed on 8 July 2014, to meet with IDPs and enable them to engage in peace and reconciliation efforts as well as confidence-building measures.

19. The Special Rapporteur considers that to achieve durable solutions in Azerbaijan effectively, it is necessary for the international community to engage and coordinate with a wide range of national and international actors, including the Government, neighbouring States, development, humanitarian, human rights and peacebuilding organizations, donors and the private sector.

20. Given the protracted nature of displacement and the need for a firm evidence-based approach to durable solutions, the data collected during the latest UNHCR participatory assessment (2013) are an important basis from which to develop a policy for local integration of IDPs as a transitional solution pending the establishment of conditions which would allow those IDPs wishing to return to the Nagorno-Karabakh region to do so in accordance with Guiding Principle28.[6] The data could be used to design a larger scale IDP profiling exercise to determine appropriate durable solutions following the criteria set out in the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons.

IV. Specific rights and issues of concern for internally displaced persons

A. Right to an adequate standard of living

21. Under principle 18 of the Guiding Principles on Internal Displacement, all IDPs have the right to an adequate standard of living. At a minimum that right includes basic shelter and housing. The Government has taken positive steps to meet the housing needs of IDPs. From 2001 to 2013, 82 temporary settlements with sociotechnical infrastructure were

[4] See UNHCR, "Being an IDP in Azerbaijan", report from a participatory assessment with IDPs in Azerbaijan (Baku, June 2013), p. 8.

[5] See UNFPA, Country Programme Action Plan 2011–2015.

[6] Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2).

constructed, benefiting 40,000 families, i.e. 180,000 IDPs. In addition, 139 secondary schools, 6 music schools, 51 kindergartens, 55 medical facilities, 45 cultural centres and 2 Olympic sports complexes were constructed; 648 km of road, 815 km of water pipeline, 1,412 km of overhead power, 333 km of gas pipes were built; 715 different capacity power transformers were installed in those new settlements. For instance, the Government reports that 760 families or 3,800 IDPs live in the newly built settlement of Masazir in Absheron district which the Special Rapporteur visited during his mission. From the point of view of IDPs, the considerable amount of government funding devoted to the construction of new settlements and facilities is strongly appreciated, as noted by the Special Rapporteur during his visit.

22. The Special Rapporteur noted other improvements since the last mission of his predecessor. For instance, tent camps and the most severe cases of inadequate housing such as railway wagons had been closed and the IDPs concerned had been resettled in newly constructed government settlements. On the other hand, the Special Rapporteur observed that some IDPs continued to live in dormitories. In total, there are 268 dormitories across the country. In Binagadi district that the Special Rapporteur visited, there were still 48 dormitories where IDPs live in precarious conditions that need improving to reach the same standard as the new settlements.

23. Problems also exist in a number of new IDP settlements located in isolated areas, a long distance from essential services, employment opportunities and administrative authorities, and in a few cases very close to the front line. That not only creates a sense of physical insecurity and isolation for IDPs from the local population, but also affects the ability of IDPs to become self-reliant. It is important that livelihood opportunities are planned and created as part of the new settlements.

24. Housing arrangements for IDPs in the new settlements are of a temporary nature and housing is provided on a free cost basis as IDPs are treated as "guests" pending implementation of the "Great Return" master plan. Those measures are no doubt welcome and have gone a long way to improve the well-being of IDPs. While IDPs enjoy privileged housing, they have no rights of ownership because return to their original homes or places of habitual residence is the durable solution predicated. Indeed all the IDPs that the Special Rapporteur met with expressed the desire to return to the Nagorno-Karabakh region. As mentioned above, the Special Rapporteur advises that all durable solutions are options open to IDPs in keeping with the IASC Framework on Durable Solutions for Internally Displaced Persons.

25. According to principle 28, paragraph 2, of the Guiding Principles on Internal Displacement, "special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration". The findings of the recent UNHCR participatory assessment indicate that both the IDPs who had moved to new settlements and those who were waiting to be moved stated that they had not been consulted about their needs and wishes in the process.[7] The Special Rapporteur strongly encourages the Government to expand and broaden consultations to ensure that all IDPs, in particular women, are better informed, consulted and involved in the development and implementation of resettlement plans as the Government speeds up its efforts to construct and allocate new units for the most vulnerable IDPs.

[7] See UNHCR, "Being an IDP in Azerbaijan" (footnote 4), pp. 16–17.

B. Employment and livelihood opportunities

26. In Azerbaijan IDPs are an increasingly diverse group in terms of income, social mobility and the degree to which they have integrated into the larger society. Conditions are particularly difficult in rural areas, where seasonal agricultural work is one of the few occupations available.

27. IDPs overall display lower employment rates and higher work inactivity rates than those who have not been displaced. According to the World Bank, the poverty rate among IDPs in 2008 was 25 per cent compared to 20.1 per cent among the ordinarily resident population; 42.5 per cent of IDPs lived in one-room accommodation compared to only 9.1 per cent of non-IDPs; IDP families had an average of 36 square metres of living space compared to 74 square metres for local families; rates of access to electricity, hot water and bathrooms were worse among the displaced than others; the employment rate among IDPs was 40.1 per cent compared to 57.4 per cent among the ordinarily resident population; and the work inactivity rate among IDPs was 54.3 per cent compared to 36.2 per cent among those who were not IDPs.[8]

28. The lack of available jobs in areas where IDPs live and their lack of social connections to secure appointments stem from and contribute to the marginalization of IDPs. That marginalization may be linked to the location of some of those IDP settlements, which remain disconnected from neighbouring communities.[9]

29. In addition, a distinct characteristic of protracted displacement in Azerbaijan relates to the fact that a whole generation of the internally displaced youth has only known a life of displacement and is being brought up with the message and prospect of returning to its place of origin. Young persons thus inherit the legacy of their parents, bound to their place of origin in view of what is considered the temporary nature of the settlements for IDPs. That may be a crucial factor in the dislocation and disruption of the capacity of young IDPs to become self-reliant in places of displacement.

30. As confirmed by a number of stakeholders that the Special Rapporteur met during his mission, the dependency syndrome engendered among IDPs persists, which the Special Rapporteur's predecessor had noticed during his previous visit. That seems to be due to a combination of factors such as regarding the situation of IDPs as being temporary, the high social protection which does not encourage them to become self-reliant and livelihood activities which are too low income to ensure self-sustainability.

31. The Special Rapporteur commends the efforts made by the Government to reduce the gap between IDPs and the habitually resident population. During his visit, he was informed by the Government that 161,000 persons out of 380,000 able-bodied IDPs had been provided with permanent employment in budget organizations and other areas and 200,000 persons had been provided with temporary employment as a result of the actions undertaken in that respect. Currently unemployed IDPs, who used to work in enterprises and organizations funded from the State budget and who lost their jobs owing to displacement, have continued to receive an average monthly salary since May 1994. That involves a total of 11,000 IDPs.

32. The Government informed the Special Rapporteur that in 2013, 1,713 IDPs, including 750 persons residing in compact areas, were provided with employment by the State Employment Service under the Ministry of Labour and Social Protection, 340 were provided with an unemployment allowance, 405 were involved in vocational training and

[8] See World Bank, *Azerbaijan—Building Assets and Promoting Self Reliance: The Livelihoods of Internally Displaced Persons* (October 2011), p. 9.

[9] Ibid.

197 persons were engaged in public works based upon current requirements of the job market.

33. In the past 10 years, 18,426 displaced persons have been provided with employment by the State Employment Service under the Ministry of Labour and Social Protection, 4,691 persons were provided with an unemployment allowance, 3,608 persons were involved in vocational training courses and 2,454 persons were engaged in public works on a paid basis.

34. During the Special Rapporteur's visit, government officials informed him that within the framework of the National Fund for Entrepreneurship Support (under the Ministry of Economy and Industry) preferential loans amounting to AZN 26.5 million[10] had been allocated to 1,200 IDPs for funding entrepreneurship investment projects in the past 10 years; in addition, preferential loans in the amount of AZN 15.9 million[11] had been allocated for funding six investment projects involving new technologies. Microcredits in the amount of AZN 7.7 million[12] were extended to 10,800 IDPs in various districts and cities of Azerbaijan by the Social Development Fund of IDPs within the framework of a loan agreement between the World Bank and the Government (IDP Living Standards and Livelihoods Project). In addition, 520 various types of community microprojects, benefiting 310,000 persons, 83 per cent of whom were IDPs, and valued at AZN 30 million,[13] had been implemented in the past 10 years by the Fund.

35. During his mission, the Special Rapporteur was informed that insecurity added to the difficulties that people living along the Line of Contact faced in accessing their land for livelihoods. Around 128,000 persons, both local inhabitants and IDPs, live within five kilometres of the Line of Contact. With virtually no local employment nor income-generating opportunities, most depend on subsistence farming, but their livelihoods are undermined, either because their land is adversely occupied or because it is too close to the Line of Contact. The Azerbaijan National Agency for Mine Awareness continues to clear landmines and run public information campaigns, and the Azerbaijan Reconstruction and Rehabilitation Agency as well as the International Committee of the Red Cross have built protective walls and redesigned homes to shield the most exposed residents from stray bullets. Despite those efforts, residents continue to struggle to access and earn an income from their land.[14]

C. Social security

36. Social security for IDPs is overseen by the State Committee for Refugees and IDPs. Irrespective of their temporary residence, all IDPs enjoy social protection envisaged for them in accordance with national legislation. They are exempted from service fees such as electricity, natural gas and drinking water and those expenditures are settled by the State directly to the service entities. Moreover, effective from August 2013, the amount of funding allocated to the monthly bread allowance was increased to AZN 18.1 (equal to US$ 23) per person/month. Those allowances are paid into bank accounts. During the autumn-winter season, late in the year, IDPs temporarily settled in cities and regions

[10] US$ 25.3 million as at 18 March 2015.

[11] US$ 15.2 million as at 18 March 2015.

[12] Almost US$ 10 million as at 21 August 2014.

[13] US$ 38 million as at 21 August 2014.

[14] See Internal Displacement Monitoring Centre, "Azerbaijan: After more than 20 years, IDPs still urgently need policies to support full integration" (March 2014), available from www.internal-displacement.org/europe-the-caucasus-and-central-asia/azerbaijan/2014/azerbaijan-after-more-than-20-years-idps-still-urgently-need-policies-to-support-full-integration/.

without a constant natural gas supply are provided with 40 litres of kerosene oil each month.

37. IDPs are also exempted from a number of taxes and fees including fees for the issuance of their identity cards; or for submitting court applications; or for their State license plates and driver's licence. They also benefit from reduced taxation including for income taxes.

D. Right to education[15]

38. By virtue of the Presidential Decree of 4 August 2003, the number of IDPs receiving paid education is higher than the general population. In addition, the Presidential Decree of 14 September 2011 provides that, starting from the 2011/2012 academic year, tuition fees are covered by the State budget for all IDPs admitted to bachelor and master educational degrees at State universities on a paid basis. The Government continues to exempt all IDPs from paying for secondary school textbooks. The Special Rapporteur notes that, although instruction at State universities is free for IDPs who pass the entrance exams, not all are able to afford the living costs, and it is not very easy for some IDPs to obtain access into reputable institutions.

39. The Special Rapporteur notes that there continues to be a lack of sufficient data collected on IDP access to education. As also pointed out by UNHCR in its recent participatory assessment, no comprehensive information exists on the level and quality of education, the literacy rate among IDPs compared to the general population, access to equipment and enrolment rates. Such data should be compiled to assess statistically the extent and quality of education offered to IDPs.

40. During his visit, the Special Rapporteur also noted that IDPs in larger communities are still offered education separately from the rest of the population. Their parents are given the choice between sending their children to mainstream schools or institutions specifically for IDPs. The curricula are identical and in some places classes are taught in the same building. Around 60 per cent of IDP children are educated separately.[16]

41. The Government's rationale for segregated schooling is that it helps children to adapt to their displacement and to maintain the social fabric of displaced communities, which in turn will make reintegration easier when they return.[17] During his visit, the Special Rapporteur heard concurring voices according to which many IDPs value and wish to retain both their status and separate schooling, so that their children can understand their heritage and because they find teachers in schools for IDPs more attentive and collaborative.

42. The Special Rapporteur cautions, however, against prolonged segregation which is not in the best interests of the child and the society as a whole. Special measures for separate education may be necessary for logistical reasons in the immediate aftermath of displacement, but the justification weakens as displacement continues, even if parents support the practice. Segregation reinforces IDP stigmatization and their isolation from the broader community and encourages nostalgia for the past, hampering their integration and adding to their precarious social position. Encouraging mixed schooling with local children, as recommended by a number of United Nations bodies[18] as well as by stakeholders met during the mission, speeds up the integration of IDP children and their parents.

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[15] Guiding Principles on Internal Displacement, principle 23.

[16] See footnote 14.

[17] Ibid.

[18] See, for example, concluding observations of the Committee on the Elimination of Racial Discrimination on Azerbaijan (CERD/C/AZE/CO/6 of 7 September 2009), para. 5.

E. Right to health

43. Health services are extended to IDPs in the area of their temporary residence. There are 326 health facilities in the districts occupied by IDPs, served by 700 physicians and 2,300 nurses. The drive to meet health needs is encouraging.

44. Difficulties remain for IDPs in accessing health services owing to the limited availability of services and supplies in their communities; demands for unofficial payment and the often poor quality of the services offered were cited. It was considered particularly difficult to access health care for serious medical conditions as well as mental health problems and reproductive health needs. When visiting certain settlements, even new ones, the Special Rapporteur indeed noticed the lack of a systematic approach with regard to IDP access to health care. Very often, mobile clinics cover specific areas and inside settlements, only a small facility is available, sometimes without any practitioner present on a regular basis. The findings of the UNHCR participatory assessment indicate that, while those obstacles to adequate health care may be similar to problems faced by many of the non-displaced Azerbaijanis, IDPs generally are more vulnerable to health risks, mainly owing to a combination of poor economic conditions and their current and past experiences as IDPs. Adversely, the negative impact of poor health on the general economic and psychosocial situation of IDPs is often more substantial for them than for the general population.[19]

45. According to the above-mentioned UNHCR participatory assessment, mental health problems and psychological stress were reported to be relatively common amongst IDPs. However, those suffering from mental health issues generally did not receive any treatment. In most locations, IDPs reported that they did not have access to specialist services such as psychologists. The youth and young women in particular felt that they were in need of somebody to talk to about their concerns, especially as they found some issues too sensitive to be discussed with family members.

46. The Special Rapporteur notes that, despite the authorities' efforts to develop an action plan, the recommendations of the mental health assessment performed by the World Health Organization should be implemented fully with concrete actions to ensure more comprehensive health services, including in the area of mental health, and increased deployment of qualified medical staff to rural areas.

47. In close partnership with local academia, regional authorities and international experts, the United Nations Children's Fund designed a project to initiate a system change in addressing the psychosocial needs of internally displaced adolescents and youth, investing in school psychologists' capacity in Line of Contact districts to provide adequate counselling services, and establishing psychological supervision. The study reveals a high dependency syndrome among IDP youth who, inter alia, have lost hope of finding a job owing to the uncertainty over their future.[20]

48. Limited access to reproductive health services is a matter that has to be addressed urgently on the basis of principle 19, paragraph 2, of the Guiding Principles on Internal Displacement, by which special attention should paid to the health needs of women, including access to female care providers and services, such as reproductive health care. Female IDPs generally have limited access to maternal and newborn health services (either due to distance or to cost expenses).[21] A related issue which needs to be dealt with is the lack of information about family planning amongst IDP communities. The UNHCR findings indicate that abortions were considered to be widespread and while it was difficult for some women and most men to talk about those sensitive issues, all the women who

[19] See UNHCR, "Being an IDP in Azerbaijan" (footnote 4), p. 6.

[20] UNICEF Annual Report 2013: Azerbaijan, p. 14.

[21] See UNHCR, "Being an IDP in Azerbaijan" (footnote 4 above), p. 47.

reported on it stated that abortions were the only form of birth control about which they knew and to which they had access.[22]

F. Freedom of movement, registration and assistance

49. The system of registration and assistance to IDPs has implications for their freedom of movement and choice of place of residence. Monthly allowances and other assistance for IDPs, including new housing, are dependent on their continued presence at their government-registered address. By linking the provision of assistance to the registered addresses of IDPs, the Government aims to maintain displaced communities together so that they can reintegrate more easily upon return. At the same time, however, those measures have a restrictive effect on the freedom of movement and choice of residence of IDPs. In its participatory assessment, UNHCR noted that many IDPs reported that they felt that their freedom of movement was restricted, in particular because access to assistance and free housing tied them to their registered residence and thus hindered them from moving to search for employment elsewhere.[23] Under principle 14 of the Guiding Principles on Internal Displacement, every IDP has the right to liberty of movement and freedom to choose his or her residence. The registration and assistance of IDPs should be guided and informed by that principle rather than restricting it.

G. Participation in public and political life

50. On the one hand, IDPs have full rights to participate in parliamentary and presidential elections. Administrative structures from in and around Nagorno-Karabakh were retained and moved to areas of high concentration of IDPs. There are currently 11 deputies from Nagorno-Karabakh and seven from territories around Nagorno-Karabakh in the Parliament (which comprises a total of 125 members).[24]

51. On the other hand, IDPs cannot vote in municipal council elections where they currently reside, thus decreasing their ability to affect local decision-making. Nor can they stand as candidates in municipal elections in their areas of displacement. However, IDPs can run as candidates and vote in municipal elections, but only in their areas of origin. In those areas, local councils were suspended after the armed conflict in and around Nagorno-Karabakh. Nevertheless, the Government maintains constituencies in IDP areas of origin, in readiness for the time when the return of IDPs will become possible. Some IDPs themselves prefer that arrangement as part of their desire to preserve the cohesion of their community and retain a separate voice in Parliament from other communities in their places of displacement.

52. According to principle 22, paragraph 1 (d), of the Guiding Principles on Internal Displacement, IDPs have the right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise that right. The Special Rapporteur considers this right to be essential in that it enables IDPs to participate in, and have influence on local politics and to campaign on local issues they deem important on equal terms with other citizens. Their inability to take part in local politics limits their participation in, and access to local self-governance and decision-making.

[22] Ibid.

[23] Ibid., p. 7.

[24] International Crisis Group, "Tackling Azerbaijan's IDP burden", Europe Briefing No. 67 (February 2012), p. 7.

53. As emphasized by his predecessor, the Special Rapporteur reiterates the need to increase initiatives and promote mechanisms to engage IDPs in consultative and participatory processes on issues affecting them (A/HRC/16/43, para. 25).

H. Specific needs

Internally displaced women

54. Public engagement to promote gender equality in all spheres including education, housing, the right to vote and livelihood opportunities is reassuring. However, in practice, women's participation remains limited. The Special Rapporteur encourages the Government to continue programmes aimed at strengthening such participation including entrepreneurship programmes launched in partnership with the European Union.[25]

55. On her mission to Azerbaijan in December 2013, the Special Rapporteur on violence against women, its causes and consequences reported that internally displaced women experienced higher rates of intimate partner violence than their counterparts in the general population (A/HCR/16/43/Add.2, para. 8).

56. In addition, women's access to employment, their participation in public life and decision-making, and their access to reproductive health services remain a concern as noted in the section on the right to health above. Men are generally considered as the main breadwinners in IDP communities and in general internally displaced women are reported not to take part in income-generating activities. The main reason cited is the need for women to stay at home and take care of their children. Adult women stated that men generally decided on the use of family resources and some women felt that that contributed further to their marginalization and isolation from economic and social life.[26]

57. Women's access to health care, and in particular to reproductive health care, has already been urgently called for above. Related is the issue of family planning. Concern for the latter was raised with the Special Rapporteur by UNFPA as well as UNHCR. According to the UNHCR participatory assessment, in all locations visited, limited access to both reproductive health services and information about reproductive health issues was raised by all groups of females between 14 and 60 years old as well as some of the younger men (18–24, 25–39). In addition, internally displaced women in rural areas usually have to travel far to give birth owing to a lack of maternal care facilities nearby. All women interviewed also mentioned that abortion was the only form of birth control.[27] Abortion must not be a form of birth control; it carries risks for the health, and especially the reproductive health, of women and their psychological well-being. Adequate provision has to be made for family planning and reproductive health care for women and men.

58. The Special Rapporteur adds his voice to those of the Committee on the Elimination of Discrimination against Women (CEDAW/C/AZE/CO/4, para. 38) and the Special Rapporteur on violence against women[28] and encourages the Government to implement measures to improve access to education, employment and health and reproductive health care for internally displaced women and girls, and to consult them on their specific needs and all processes that affect them. All the necessary measures should be taken to increase women's self-reliance, the quality of their well-being and family life and their contribution to the welfare of their communities.

[25] Information provided by the Deputy Minister of Economy and Industry to the Special Rapporteur during his visit.

[26] UNHCR, "Being an IDP in Azerbaijan" (see footnote 4), pp. 21–22.

[27] Ibid., p. 47.

[28] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14065&LangID=E (accessed on 9 April 2014).

Internally displaced children

59. The Special Rapporteur notes that since his predecessor's last visit, discrimination between children of internally displaced women and internally displaced men has remained an issue. A child whose father is registered, but whose mother is not, is eligible to be registered as an IDP and is entitled to the benefits that registration affords. The same is true of the children of divorced, widowed and unmarried women who are registered as IDPs. However, a child whose mother is registered, but whose father is not, is not eligible.[29] The result is that internally displaced children are treated differently based on whether their father has been registered or not.

60. The Government says its stance is based on the fact that when internally displaced women marry, they move to and are registered at their husband's residence, as are their children. Men who have not been displaced have property and housing, meaning that their children do not need to be registered as IDPs. Children born to men with IDP registration are registered at their father's place of origin. In fact that practice entrenches male patriarchy and the Special Rapporteur recommends that to avoid such discrimination registration and treatment of IDP children should be granted according to their needs.

IDPs with disabilities and others with special needs

61. IDPs with disabilities, older persons and those with other special needs often face particular challenges owing to their condition. While they are included in national programmes, there are few targeted measures to identify and respond to their particular situations. United Nations treaty bodies (the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination in particular) have recommended that the Government ensure timely consultations with IDPs on its plans for them, with channels for their voices to be heard and particular attention to women's participation.

V. Search for durable solutions for internally displaced persons

62. Achieving a durable solution enables IDPs to resume their normal life. Principles 28–30 of the Guiding Principles on Internal Displacement make provision for durable solutions and the IASC Framework on Durable Solutions for Internally Displaced Persons provides guidance on how to achieve durable solutions, which is often a complex process. Solutions can only be considered to be "durable" if they are sustainable and a number of conditions are fulfilled, including enjoyment by the persons concerned of the protection of the State of nationality (for citizens) or residence; the voluntariness of the decision to return, integrate locally, or settle elsewhere within a country; the prevalence of safety and security in areas of settlement or return; real prospects for restitution of or compensation for lost property; non-discrimination in the enjoyment of rights and equal access to public services and economic opportunities.[30]

63. In the current context, which has remained unchanged since the visit of the Special Rapporteur's predecessor in 2010, the prospect of return as a durable solution for IDPs in Azerbaijan who wish to return to their homes or places of habitual residence remains remote, pending the "Great Return Programme". The Special Rapporteur therefore encourages dialogue on the Programme and urges the international community and all parties to work towards reaching a peace settlement regarding the unresolved armed conflict in and around the Nagorno-Karabakh region, with the aim of fully restoring the

[29] Internal Displacement Monitoring Centre, "Azerbaijan", p. 8.

[30] See UNHCR, Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons* (June 2010) (www.unhcr.org/4c2355229.html).

human rights of IDPs in Azerbaijan, in particular their right to voluntary return in safety and dignity, if they so wish. He calls on the international community's support to achieve that goal,[31] while keeping open local integration and settlement elsewhere in the country as options for those IDPs who may wish to choose those as durable solutions for themselves.

64. During the Special Rapporteur's visit, State officials extensively referred to the Great Return Programme announced by the Government as of 2005 and which was to assert the principle of voluntary return in the context of an eventual settlement of the armed conflict in and around the Nagorno-Karabakh region. The Special Rapporteur is under the impression that the plan is yet to be made public and shared with relevant stakeholders including United Nations agencies in the country. The Special Rapporteur encourages the Government to make the plan public and to use the expertise of development organizations and United Nations agencies to establish conditions of normality that would allow IDPs to return voluntarily and in safety and dignity. There are complex issues about addressing property issues, ensuring the issuance of demining certificates, increasing the capacity of relevant actors (A/HRC/16/43/Add.2, para. 65), building all other necessary infrastructure and facilitating the coexistence in a spirit of reconciliation between returning IDPs and the communities living in and around the Nagorno-Karabakh region. The Special Rapporteur reiterates his offer to provide his expertise and he remains available should the Government wish to consult him on the content of the Programme. The Government mentioned that the Programme included a transition period of three years during which IDPs would continue to receive social allowances and incentives to help them reintegrate and start new livelihood opportunities.

65. While most IDPs and representatives of IDPs that the Special Rapporteur met during his visit did indeed mention return to their place of origin as the best option for a durable solution, that does not provide sufficient grounds to conclude that all IDPs wish to return to their place of origin. The Special Rapporteur therefore insists that all durable solutions should remain as options open to IDPs and that, as already recommended by his predecessor, a comprehensive survey of intent of all IDPs be carried out to fully determine their intent and which option would be most suitable for each of them. In that regard, the Special Rapporteur insists that while the Government's preference remains the return of IDPs to their place of origin, that preference does not absolve the Government from the obligation to ensure the self-reliance of IDPs and the possibility for them to integrate locally if they so wish.

66. In line with his predecessor's recommendation, the Special Rapporteur insists on a comprehensive needs assessment to differentiate between the levels of need of the persons who have been displaced for the past 20 years. Not all IDPs have the same needs and the only way to ensure that those who require special attention are adequately identified is through such a comprehensive assessment. The rights, needs and legitimate interests of IDPs must guide all future policies and decisions on internal displacement and durable solutions, including the new State programme for IDPs for 2015–2020 so as to promote IDP self-reliance and full social integration while they wait to be able to return, if they so wish. During his visit, the Special Rapporteur called the attention of the Government to the need to adopt a development rights-based approach that includes IDPs in development planning strategies, including the national consultation processes of the post-2015 development agenda, in the areas of housing, education, health and employment to strengthen their resilience, livelihood opportunities and self-reliance.

[31] On 30 May 2014, the Special Rapporteur addressed the Security Council in the framework of the Arria formula. The message he conveyed was for the international community to revisit such unresolved conflicts and for the Security Council to ensure implementation of its pertinent resolutions, particularly Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993).

67. In that regard, the Special Rapporteur commends the Government for the efforts already made to ensure that IDPs have equal access to all human rights. The Government has not only worked towards an improvement of IDP rights, especially in the areas of housing, education, livelihood and social security, but it has also raised awareness on displacement, collected some data, and trained officials on IDP rights. It has also adopted a number of laws to ensure increased protection of IDPs.

68. With regard to the right to an adequate standard of living, the Special Rapporteur notes, however, that while newly built settlements offer rather stable housing conditions for IDPs, the discourse remains that IDPs are only temporarily "hosted" in those settlements until they are able to return to their place of origin. In order to widen their livelihood opportunities, the Special Rapporteur thus recommends that the Government expand the housing options for IDPs to include purchase certificates through which IDPs could find and buy their own accommodation, the allocation of government-purchased apartments and houses, financial assistance to build their own housing, and rental subsidies to enable IDPs to rent inside neighbourhoods. Those incentives will certainly reduce the feeling of stigmatization expressed by IDPs in the recent surveys carried out by agencies such as UNHCR and the World Bank.

69. Consultation and participation of IDPs in processes that affect them could be improved. The Government has not established mechanisms to ensure consultation with IDP or their participation in decision-making, and their meaningful involvement in reconciliation processes has not been facilitated.

VI. Conclusions and recommendations

70. **The Special Rapporteur on the human rights of internally displaced persons welcomes the continuous progress made by the Government of Azerbaijan in the search for durable solutions for all IDPs in the country. In line with his predecessor's observations, he commends the Government for its dedication to the issue and for continuing to assume the primary responsibility for the protection and assistance of persons internally displaced by the armed conflict in and around the Nagorno-Karabakh region. That continues to be accompanied by the necessary budget allocations.**

71. **The Special Rapporteur considers that further joint efforts are still necessary to overcome the obstacles to durable solutions. In that spirit, the Special Rapporteur presents the following conclusions and recommendations.**

72. **One of the main obstacles in the search for durable solutions for IDPs in Azerbaijan remains the absence of a political settlement to the unresolved armed conflict in and around the Nagorno-Karabakh region, as has already been observed by the previous mandate holder in his reports. The Special Rapporteur calls on the parties concerned as well as the international community to work towards such a goal. Reaching a peaceful settlement to the unresolved conflict is critical to resolving the protracted situation of internal displacement, which has lasted more than 20 years in Azerbaijan.**

73. **The Special Rapporteur also calls upon all parties to approach durable solutions from a humanitarian and development perspective and to take all the necessary measures to ensure that all IDPs can exercise their right to make a free and informed decision as to whether to return voluntarily to their homes in safety and dignity, to integrate locally or to resettle elsewhere in the country.**

74. **The Special Rapporteur strongly recommends the participation of IDPs in all processes that affect them. In that regard, the Special Rapporteur strongly encourages the Government to work towards strengthening the climate of greater freedom,**

consultation and participation, which are all conducive to participation in public life, as well as determining processes for the achievement of durable solutions.

75. New opportunities currently exist for the adoption of an inclusive integrated approach for IDPs in Azerbaijan, in accordance with the international standards contained in the Guiding Principles on Internal Displacement. The new opportunities include the Great Return Programme, yet to be shared; the next State Programme for IDPs to begin in 2015 and the formulation by the Government of inclusive policies in the fields of housing, health, land, agriculture, education and employment-generating activities. The Special Rapporteur recommends that the Government share those draft documents and plans with interested stakeholders so as to gain support and enable systematic and coherent approaches to durable solutions for IDPs. The integration of the goals of the post-2015 agenda into durable solutions is an important aspect as well. As mentioned during his visit, the Special Rapporteur stands available to provide his expertise on the Great Return and the State Programmes at the Government's request.

76. The Special Rapporteur commends the continuing commitment by State authorities to improving the living conditions of IDPs by ensuring access to housing for those who were displaced as a result of the armed conflict in and around the Nagorno-Karabakh region. In that regard, the Special Rapporteur commends the Government and, in particular, the Deputy Prime Minister and the State Committee for IDPs and Refugees for the efforts made to build new settlements for IDPs.

77. The Special Rapporteur insists, however, that access to housing can be made durable only through a needs-based approach and on the basis of consultation with those concerned. The Special Rapporteur therefore encourages the Government to share information relating to the enhancement of living conditions and other livelihood measures with IDPs, especially women, but also international partners and civil society. He advocates the importance of diversifying alternative housing strategies to include access to ownership of property or rental subsidies to facilitate the integration of IDPs where they are if they so wish.

78. The Special Rapporteur further considers that there is an urgent need to improve the living conditions and livelihood opportunities of IDPs who are still living in collective centres in dire conditions.

79. The Special Rapporteur is concerned that most IDPs still suffer from stigma and do not enjoy equal access to livelihood opportunities. The Special Rapporteur recommends that the Government perform a countrywide needs-based assessment to understand the causes for such inequalities and better respond to the needs of those concerned, including by carrying out a survey of intent on the part of IDPs. The Special Rapporteur recommends that the Government integrate IDPs into broader development plans and initiatives, rather than developing a comprehensive strategy on livelihoods for IDPs only, so as to increase their resilience and chances of integration in society, and decrease their dependency on government assistance in the longer run. Particular attention should be paid to specific categories of IDPs in need such as the youth, women in general, and female-headed households in particular.

80. The Special Rapporteur reiterates his predecessor's recommendation that a study on the quality of education at schools for IDPs, access to education, the performance of students and their views on the schools would be useful in better understanding their needs and problems, with the ultimate aim of ensuring they become integrated members of society.

81. In the light of the efforts which still need to be made to ensure adequate access to health care for IDPs as well as for the overall population, the Special Rapporteur insists on the importance of carrying out a general assessment on access to health care in Azerbaijan to tailor the response to requirements. The Special Rapporteur also

reiterates his predecessor's recommendation to implement the recommendations of the mental health assessment of the World Health Organization. He further recommends paying greater attention to access to reproductive health, which remains critical in Azerbaijan.

82. **The Special Rapporteur notes that the registration system has remained unchanged since his predecessor's last visit. He reiterates the need to change the current legislation so as to enable IDPs to vote in their current places of residence.**

83. **The Special Rapporteur recommends that the Government ensure effective monitoring of the protection of the human rights of the IDPs who live near the Line of Contact. Furthermore, in line with principle 2 of the Guiding Principles on Internal Displacement, he recommends that all authorities ensure the full enjoyment of the human rights of those IDPs, including the rights relating to freedom of movement and access to livelihoods.**

84. **The Special Rapporteur emphasizes that all durable solutions should remain as options available to IDPs. Particular attention should be paid to IDPs with specific needs such as women, children, older persons and persons with disabilities, to ensure that they are able to fully enjoy their rights concerning their protection and the measures taken to assist them, including durable solutions.**